

Town Board Minutes

**Meeting
No. 31**

Regular Meeting

October 15, 2007

Town Board Minutes

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Meeting No. 31

A Regular Meeting of the Town Board of the Town of Lancaster, Erie County, New York, was held at the Town Hall at 21 Central Avenue, Lancaster, New York on the 15th day of October 2007 at 8:00 P.M. and there were

PRESENT: DANIEL AMATURA, COUNCIL MEMBER
MARK MONTOUR, COUNCIL MEMBER
RONALD RUFFINO, COUNCIL MEMBER
DONNA STEMPIAK, COUNCIL MEMBER
ROBERT GIZA, SUPERVISOR

ABSENT: NONE

ALSO PRESENT: JOHANNA COLEMAN, TOWN CLERK
RICHARD SHERWOOD, TOWN ATTORNEY
JEFFREY SIMME, BUILDING INSPECTOR
GARY STOLDT, CHIEF OF POLICE
TERRENCE McCracken, GENERAL CREW CHIEF
RICHARD REESE JR., HIGHWAY SUPERINTENDENT
ROBERT HARRIS, ENGINEER, WM. SCHUTT & ASSOCIATES

EXECUTIVE SESSION:

UPON A MOTION DULY MADE BY COUNCIL MEMBER RUFFINO, SECONDED BY COUNCIL MEMBER AMATURA AND CARRIED, the Town Board entered into Executive Session to deliberate on the announced purpose of discussing a contractual matter and a particular personnel matter in the Highway Department.

At 9:59 P.M., the Town Board reconvened with all members present. The Town Clerk reported that no official actions were taken by the Town Board in Executive Session.

PERSONS ADDRESSING TOWN BOARD:

Beutler, Daniel, 26 Tyler Street, spoke to the Town Board on the following:

- Special Use Permit for auto sales

Chowaniec, Lee, 93 Northwood Drive, spoke to the Town Board on the following matter:

- Order to Show Cause for proposed Tim Horton's Restaurant on Transit Road near Michael Anthony Lane

Sorgi, Peter Esq., spoke to the Town Board on the following matter:

- Parkhaven Patio Homes at Bowen & Broadway

Fronczak, Mike, 3 Woodstream, spoke to the Town Board on the following matters:

- Order to Show Cause for proposed Tim Horton's Restaurant on Transit Road near Michael Anthony Lane
- curbs in his subdivision

PUBLIC HEARING SCHEDULED FOR 8:30 P.M.:

At 8:31 P.M., the Town Board held a Public Hearing to provide an opportunity for citizens to express community development and housing needs and to discuss possible projects which would benefit low and moderate income persons in the Town of Lancaster.

The affidavits of publication and posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

NAME	ADDRESS	Proponent/ Opponent/ Comments/Questions
Dan Beutler	56 Tyler Street	Questions
Roy Schneggenburger	87 Stony Road	Sidewalks on Stony Road
Marion Suchora	67 Irwinwood Road	Questions

ON MOTION BY COUNCIL MEMBER RUFFINO, SECONDED BY COUNCIL MEMBER AMATURA AND CARRIED, the public hearing was closed at 8:46 P.M.

The Town Board, later in the meeting, adopted a resolution, hereinafter spread at length in these minutes, taking favorable action upon this matter.

October 15, 2007

PRESENTATION OF PREFILED RESOLUTIONS BY COUNCIL MEMBERS:

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

RESOLVED, that the minutes of the Regular Meeting of the Town Board held
October 1, 2007 be and are hereby approved.

The question of the adoption of the foregoing resolution was duly put to a vote on
roll call, which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

File: RMIN (P2)

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED IT'S ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPNIAK, TO WIT:

WHEREAS, New York State Electric & Gas Corp., 150 Erie Street, Lancaster,
New York 14086, by letter dated September 28, 2007, has presented a cost proposal for the
installation of one (1) 100 watt high pressure sodium Rate 3 light on Ward Road in the Town of
Lancaster and, if necessary, install a sixteen (16) foot or longer bracket .

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby accepts the
proposal of New York State Electric & Gas Corp. for the following:

Installation of:

1- 100 watt high pressure sodium Rate 3 light	@ \$132.00 annually
1 - 16 ft. or longer bracket	@ \$ 28.06 annually

TOTAL ANNUAL INCREASE - \$160.06

BE IT FURTHER

RESOLVED, that the Supervisor of the Town of Lancaster be and is hereby
authorized to accept and execute the proposal of New York State Electric & Gas Corp. for the
above mentioned installation.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO MOVED ITS
ADOPTION. SECONDED BY COUNCIL
MEMBER RUFFINO. TO WIT:

WHEREAS, the Town Board, on behalf of all the Special Districts and Special Improvement Districts, upon which the cost of maintenance is required by law to be apportioned and assessed in proportion to the amount of the benefits conferred, has duly prepared detailed estimates in writing of the anticipated revenues and expenditures for such districts to determine the amount of money required to meet the expense of maintaining same, and

WHEREAS, the Town Board has assessed the amount of said estimates on several lots against which the expense of the improvement was charged in proportion to the amount of benefit conferred, and

WHEREAS, Assessment Rolls were duly prepared according to law and said assessment rolls were duly filed in the Office of the Town Clerk.

NOW, THEREFORE, BE IT

RESOLVED, as follows:

1. That a Public Hearing is hereby called and shall be held on the 5th day of November 2007, at 8:30 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, at which time and place this Town Board will meet to consider the aforementioned Special Districts Budget for the Year 2008, and to hear all persons interested in the subject matter thereof, and concerning the same, and

2. That a Legal Notice of said Public Hearing be published in the Lancaster Bee on October 18, 2007, which Notice shall be in the form attached hereto and made a part hereof and which date of publication is not less than ten (10) nor more than twenty (20) days prior to the public hearing.

The question of the adoption of the following resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

**LEGAL NOTICE
TOWN OF LANCASTER
NOTICE OF PUBLIC HEARING
UPON THE 2008 SPECIAL DISTRICTS BUDGET**

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Lancaster, New York, has completed its estimates and assessment roll relating to Special Districts, spreading costs on a benefit basis, and has filed same with the Town Clerk for the following districts for the year 2008:

Consolidated Water District

Consolidated Lighting District Number 1

Fire Protection District

Refuse and Garbage District

and,

FURTHER NOTICE IS GIVEN, that a Public Hearing on such estimates and Assessment Roll will be held on November 5, at 8:30 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, at which time and place the Town Board will meet to hear and consider any persons interested in the subject matter thereof.

**BY ORDER OF THE: TOWN BOARD OF THE
TOWN OF LANCASTER**

BY: JOHANNA M. COLEMAN, Town Clerk

October 15, 2007

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO MOVED ITS
ADOPTION, SECONDED BY COUNCIL
MEMBER STEMPIAK, TO WIT:

WHEREAS, Robert H. Giza, Budget Officer of the Town of Lancaster, on October 1, 2007, duly filed the Tentative Budget of said Town for the fiscal year beginning January 1, 2008, with the Town Clerk of said town.

NOW, THEREFORE, BE IT

RESOLVED, that the said Tentative Budget is hereby approved and shall become the Preliminary Budget of the Town of Lancaster for the fiscal year beginning January 1, 2008, and

BE IT FURTHER

RESOLVED, that said Preliminary Budget shall be filed in the Office of the Town Clerk of the Town of Lancaster and be made available by her to the public for inspection during the regular business hours of the Town Clerk's Office, and

BE IT FURTHER

RESOLVED, that a Public Hearing on the Preliminary Budget of the Town of Lancaster for the year 2008, be held by this Town Board at the Town Hall, 21 Central Avenue, Lancaster, New York on the 5th day of November 2007, at 8:35 o'clock P.M., Local Time, and

BE IT FURTHER

RESOLVED, that a Legal Notice of said Public Hearing upon the 2008 Preliminary Budget, as required by Section 108 of the Town Law of the State of New York, be published in the Lancaster Bee, on October 18, 2007 which Notice shall be in the form attached hereto and made a part hereof and which date of publication is not less than five (5) days prior to the public hearing.

The question of the adoption of the following resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

**LEGAL NOTICE
TOWN OF LANCASTER
NOTICE OF PUBLIC HEARING
ON THE 2008 PRELIMINARY BUDGET**

NOTICE IS HEREBY GIVEN, that the Preliminary Budget of the Town of Lancaster, for the fiscal year beginning January 1, 2008, has been filed in the Office of the Town Clerk, 21 Central Avenue, Lancaster, New York, where it is available for inspection by any interested persons during office hours.

FURTHER NOTICE IS GIVEN, that the Town Board of the Town of Lancaster will meet and review said Preliminary Budget and hold a Public Hearing thereon at the Town Hall, 21 Central Avenue, Lancaster, New York, at 8:35 o'clock P.M., Local Time, on the 5th day of November, and at such hearing, any person may be heard in favor of or against the Preliminary Budget as compiled, or for or against any item or items therein contained.

Pursuant to Section 108 of the Town Law, the proposed annual salaries of the following Town Officers are specified as follows:

Supervisor - as Supervisor	\$68,959
- as Budget Officer	\$7,524
Council Member	\$17,929
Council Member	\$17,929
Council Member	\$17,929
Council Member	\$17,929
Town Justice	\$38,800
Town Justice	\$38,800
Town Clerk - as Town Clerk	\$65,906
- as Records Management Officer	\$ 6,053
- as Registrar of Vital Statistics	\$900
- as Clerk to Zoning Board of Appeals	\$3,143
Superintendent of Highways	
- as Superintendent of Highways	\$64,649
- as Drainage Coordinator - P.T.	5,150

BY ORDER OF THE TOWN BOARD OF THE
TOWN OF LANCASTER

BY: JOHANNA M. COLEMAN, Town Clerk

October 15, 2007

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

WHEREAS, the Executive Director of the Youth Bureau, by letter dated October 9, 2007, has recommended the appointment of two regular part time tutors to work in the Youth Bureau of the Town of Lancaster.

NOW, THEREFORE, BE IT

RESOLVED, that the following individuals be appointed to the positions of tutor regular part time not to exceed nineteen hours per week, in the Town of Lancaster Youth Bureau effective October 15, 2007, and that these appointments, being part time positions, provide no health insurance, sick days, vacation or other fringe benefits not specifically mandated for regular part time employees.

<u>NAME</u>	<u>RATE</u>
Lisa M. Johnson 70 Kieller Avenue Depew, NY 14043	\$10.00 per hour
Lori M. Nowak 324 Lydia Lane Depew, NY 14043	\$15.00 per hour

BE IT FURTHER,

RESOLVED, that the Supervisor of the Town of Lancaster take the necessary action with the Personnel Officer of the County of Erie to accomplish the foregoing.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

WHEREAS, the Lancaster/Depew Meals on Wheels desires to enter into a contractual arrangement with the Town to continue the provision of meals to housebound seniors, and

WHEREAS, the Town Board has given due review and consideration to this request and deems it in the public interest for the Town to enter into a contract to provide for the continuation of this meal service for seniors;

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby authorizes the Supervisor of the Town of Lancaster to enter into an agreement with the Meals on Wheels of Buffalo and Erie County, Inc. to provide the continuation of the meal program for housebound seniors, the Town to provide under this contract the sum of up to \$17,500. for the year 2008.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

File: mealsonwheels1007

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR STEMPIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

WHEREAS, the Town Board of the Town of Lancaster has heretofore held a public hearing pursuant to Chapter 50-Zoning Section 20 (B) (1) (j) of the Code of the Town of Lancaster upon the application of **TONY SCIRRI, d/b/a G & S Management**, for a Special Use Permit for automobile sales on premises located at 6497 Transit Road in the Town of Lancaster, New York, and

WHEREAS, persons for and against such Special Use Permit have had an opportunity to be heard:

NOW, THEREFORE, BE IT

RESOLVED, that pursuant to §50-20 (B) (1) (j) of the Code of the Town of Lancaster, the Town Board of the Town of Lancaster does hereby grant a Special Use Permit to **TONI SCIRRI, d/b/a G & S Management**, for automobile sales on premises locally known as 6497 Transit Road in the Town of Lancaster, New York, with the following conditions:

- a maximum of 15 cars may be on display at any time
- all conditions as set forth in the Zoning Ordinance of the Town of Lancaster

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

File: rg&smanagementspecialusepermit807a

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER MONTOUR, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER AMATURA, TO WIT:

WHEREAS, the Town Board of the Town of Lancaster has held a public hearing to take comment on proposals for the Town application for Erie County Community Development Block Grant funds which are administered through a consortium of Erie County Governments, and

WHEREAS, after said public hearing the Town Board deems it in the public interest to submit an application for the following project:

1) Sidewalks on the South Side of William Street

NOW, THEREFORE, BE IT

RESOLVED, at a meeting of the Lancaster Town Board held on October 15, 2007, the Board authorized Robert H. Giza, Supervisor, to sign, submit and execute contracts with the Erie County Community Development Block Grant (ECCDBG) program for the following project upon approval of ECCDBG:

1) Sidewalks on the South Side of William Street

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

File: CDBG 2008-2009

PREFILED RESOLUTION NO. 9 - MEETING OF 10/15/07

Stempniak/ _____

Amend Resolution Adopted May 15, 2006 Re: Authorize
Subdivision Map Cover Filing Parkhaven Patio Homes
Subdivision

At the request of Council Member Stempniak, this resolution was withdrawn for
further study.

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER MONTOUR, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

WHEREAS, the Town of Lancaster Justice Court recently sustained fire damage, including damage to computers and monitors, and

WHEREAS, the Town's fire insurance policy includes a \$10,000 deductible resulting in the Town having to absorb the expense of repairs and replacement of equipment up to \$10,000, and

WHEREAS, grant monies are available from the State Archives Local Government Records Management Improvement Fund, Disaster Program to reimburse the Town for various costs associated with damage to records management equipment and related costs such as computer consulting.

NOW, THEREFORE, BE IT

RESOLVED, that Grantmakers Advantage, Inc., the Town's grant consultants, be authorized and directed to complete the necessary application, forms, etc. to be submitted to the New York State Education Department State Archives for the purpose of securing this grant, and

BE IT FURTHER

RESOLVED, that the Supervisor and Town Clerk be and hereby are authorized and directed to execute all documents pertaining to the application and acquisition of said funding.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPNIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER AMATURA, TO WIT:

WHEREAS, TDL Group, 4455 Transit Road, Suite 2B, Williamsville, New York 14221, has submitted a revised site plan prepared by FRA Planning Designing Building dated August 24, 2007 and received August 31, 2007 for the proposed development of a **Tim Horton's Restaurant** with a drive-through along with associated parking located at 4849 Transit Road in the Town of Lancaster, and

WHEREAS, the Planning Board has reviewed the plan at its meeting held on May 2, 2007, and

WHEREAS, the Zoning Board has reviewed area variances requested and granted its approval, and

WHEREAS, a SEQR Review of this project was held August 6, 2007 and a negative declaration was issued at that time, and

WHEREAS, the Town Board voted against approval of the site plan by a 3 - 2 vote on September 10, 2007 and the developer thereafter commenced a CPLR Article 78 proceeding in New York State Supreme Court, Erie County seeking judicial intervention to reverse the Town Board action together with damages and attorney's fees and costs of the action, and

WHEREAS, the Town Attorney appeared in State Supreme Court on the return date of the Order to Show Cause pursuant to Article 78, and

WHEREAS, the Town Board after discussion with the Town Attorney believes it to be in the best interest of the taxpayers of the Town of Lancaster to rescind its prior denial and now approve the site plan which plan is in compliance with the Town Code;

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby approves the site plan submitted by TDL Group and prepared by FRA Planning Designing Building, dated August 24, 2007 and received August 31, 2007 for the proposed development of a Tim Hortons restaurant with a drive-through along with associated parking located at 4849 Transit Road in the Town of Lancaster conditioned on final landscaping to be approved by the General Crew Chief Terrance McCracken.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTGOMERY	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPNIAK. WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MONTOUR. TO WIT:

WHEREAS, Marrano/Marc Equity Corporation has requested that the Town Board approve disturbance of greater than five (5) acres including the stripping of topsoil from the proposed subdivision known as "The Greens at Pleasant Meadows" located within the Pleasant Meadows development and more specifically west of Juniper Boulevard and south of Pleasant View Drive, and

WHEREAS, the applicant has submitted its Notice of Intent (NOI), together with its Storm Water Pollution Prevention Plan to the New York State Department of Environmental Conservation (DEC), and

WHEREAS, the Town of Lancaster Planning Board has reviewed the Preliminary Plat and voted to approve the plat with certain changes set out in the Planning Board resolution on July 18, 2007, and

WHEREAS, the developer has submitted a proposed final plat with revisions as recommended by the Planning Board, and

WHEREAS, the DEC, Region 9, has approved the disturbance of greater than five (5) acres in the proposed subdivision to be known as "The Greens at Pleasant Meadows", based upon the Storm Water Pollution Prevention Plan submitted by Marrano Marc Equity Corporation, and

WHEREAS, the applicant has advised the Board in its request for permission to disturb the soil in this proposed subdivision that it will comply with the NYSDEC General SPDES Permit and the USACOE wetland permit;

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby grants permission to Marrano/Marc Equity Corporation to engage in the disturbance of soil in the proposed "The Greens at Pleasant Meadows" subdivision and associated drainage and topsoil stockpiling areas within the Pleasant Meadows development with the condition that the developer remain in compliance with the NYSDEC and USACOE wetland permits and the Stormwater Pollution Prevention Plan.

The question of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO MOVED ITS
ADOPTION, SECONDED BY COUNCIL
MEMBER MONTOUR, TO WIT:

RESOLVED, that the following Audited Claims be and are hereby ordered paid from
their respective accounts as per abstract to be filed in the Office of the Town Clerk by the Director
of Administration and Finance, to wit:

Claim No. 10784 to Claim No. 11069 Inclusive

Total amount hereby authorized to be paid: \$260,401.97

The question of the foregoing resolution was duly put to a vote on roll call which
resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

File: Relains

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPNIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MONTOUR, TO WIT:

RESOLVED that the following Building Permit applications be and are hereby reaffirmed:

CODES:

(SW) = Sidewalks as required by Chapter 12-1B. of the Code of the Town Lancaster are waived for this permit.

(CSW) = Conditional sidewalk waiver.

(V/L) = Village of Lancaster

NEW PERMITS:

15137	Superior Decks	0 Pleasant View Dr	Er. Gazebo	
15141	J.L.B. Installations	27 Cobblestone Ct	Er. Fence	
15142	J.L.B. Installations	27 Cobblestone Ct	Er. Pool-In Grnd	
15143	Bigelow, Regina	1390 Ransom Rd	Er. Res. Add.	
15144	Majestic Pools Inc	569 Lake Ave	Er. Fence	
15145	Majestic Pools Inc	569 Lake Ave	Er. Pool-In Grnd	
15146	Lancaster Comm Baptist	520 Ransom Rd	Er. Sign	
15147	Owczarzak, Patricia	24 Sherborne Ave	Er. Shed	(V/L)
15148	Duro-Shed Inc	69 Wilma Dr	Er. Shed	(V/L)
15149	Grau Builders	3920 Bowen Rd	Er. Dwlg.-Sin.	
15150	Grau Builders	3922 Bowen Rd	Er. Dwlg.-Sin.	
15151	Parco Building Systems	236 Westwood Rd	Er. Storage Bldg.	
15152	Empire Building	3598 Walden Ave	Dem. Dwlg.	
15153	Twin City Electrical	1 Nashua Ct	Inst. Generator	
15154	Logan Homes	6267 Genesee St	Er. Dwlg.-Sin.	
15155	Premier Fence Co	49 Doris Ave	Er. Fence	(V/L)
15156	Komrek Dennis	29 Katelyn Ln	Er. Res. Alt.	
15157	Holy Mother/Rosary	6298 Broadway	Er. Sign	
15158	Ryan Homes	27 St Anthony St	Er. Dwlg.-Sin.	
15159	Homestead Designs	46 Oxford Ave	Er. Shed	(V/L)
15160	Koerner, Kevin	73 Newberry Ln	Er. Shed	
15161	Bender, Robert	470 Aurora St	Er. Comm. Add.	
15162	Forbes-Capretto Homes	9 Sawgrass Ln	Er. Dwlg.-Sin.	
15163	Sun Enterprises Inc	4888 William St	Er. Shed	
15164	Durabuilt Inc	22 Ashley Dr	Er. Garage	(V/L)
15165	Duro-Shed Inc	70 Brunck Rd	Er. Shed	
15166	Quality Aluminum II	111 Burwell Ave	Repl. Roof	(V/L)
15167	Quality Aluminum II	125 Sixth Ave	Repl. Roof	(V/L)
15168	Majestic Pools Inc	68 Michael's Walk	Er. Pool-In Grnd	
15169	Wargo Enterprises	236 Westwood Rd	Dem. Barn	
15170	Beauty Pools Inc	31 Plumb Creek Trl	Er. Pool-In Grnd	
15171	Huber, Alois	1131 Ransom Rd	Er. Deck	
15172	Forbes-Capretto Homes	37 Sawgrass Ln	Er. Dwlg.-Sin.	

15173	Christian General Contr	30 Chicory Ln	Fr. Res. Add.	
15174	Moderncraft Home Impr	30 Chicory Ln	Er. Shed	
15175	Duro-Shed Inc	87 Newberry Ln	Fr. Shed	
15176	Symons, Robert	33 Ivy Way	Repl. Header	(V/L)
15177	Binkowski, Christopher	33 Lenox Ave	Er. Fence	(V/L)
15178	Kusz, Donald	7 Joseph Dr	Er. Shed	
15179	Duro-Shed Inc	185 Lake Ave	Er. Shed	(V/L)
15180	Symons, Robert	33 Ivy Way	Er. Res. Alt.	(V/L)
15181	Sahlem's Roofing	148 Brunck Rd	Repl. Roof	
15182	Sahlem's Roofing	245 Aurora St	Repl. Roof	(V/L)
15183	Sahlem's Roofing	11 Rue Madeleine Way	Repl. Roof	
15184	Aqua Systems of WNY	28 Nicholas Ln	Inst. Sprinkler System	
15186	Sun Enterprises	5520 William St	Er. Shed	

BE IT FURTHER

RESOLVED, that the Building Permit Applications herein coded (SW) for sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance requirement for sidewalks, and

BE IT FURTHER

RESOLVED, that the Building Permit Applications herein coded (CSW) for conditional sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance required for sidewalks, however, the waiver is granted upon the expressed condition that the Town of Lancaster, at any future date, reserves the right to order sidewalk installation at the expense of the property owner.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

Supervisor Giza requested a suspension of the necessary rules for immediate consideration of the following resolutions:

UPON A MOTION DULY MADE BY COUNCIL MEMBER RUFFINO, SECONDED BY COUNCIL MEMBER STEMPIAK AND CARRIED, a suspension was granted.

SUSPENSION GRANTED.

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER AMATURA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MONTOUR, TO WIT:

WHEREAS, the Municipal Home Rule Law of the State of New York and Chapter 26 of the Code of the Town of Lancaster provide for the adoption and enactment of local laws, and

WHEREAS, after review and consideration, the Town Board of the Town of Lancaster deems it in the public interest to enact a Local Law of the Year 2007, entitled "PROHIBIT ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS TO SEPARATE STORM SEWER SYSTEM", and further designated as Chapter 43, of the Code of the Town of Lancaster, which reads as follows:

Chapter 43

PROHIBIT ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS TO SEPARATE STORM SEWER SYSTEM

**Proposed
Local Law
Of the Year 2007**

"A LOCAL LAW TO PROVIDE FOR THE HEALTH, SAFETY AND GENERAL WELFARE OF THE CITIZENS OF THE TOWN OF LANCASTER THROUGH THE REGULATION OF NON-STORMWATER DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) TO THE MAXIMUM EXTENT PRACTICABLE AS REQUIRED BY FEDERAL AND STATE LAW. THIS LAW ESTABLISHES METHODS FOR CONTROLLING THE INTRODUCTION OF POLLUTANTS INTO THE MS4 ORDER TO COMPLY WITH REQUIREMENTS OF THE SPDES GENERAL PERMIT FOR MUNICIPAL SEPARATE STORM SEWER SYSTEMS."

PROHIBIT ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS TO SEPARATE STORM SEWER SYSTEM

Article I

General Provisions

Section 1. Purpose/Intent.

The purpose of this law is to provide for the health, safety, and general welfare of the citizens of the Town of Lancaster through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This law establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this law are:

- 1.1 To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- 1.2 To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- 1.3 To prohibit Illicit Connections, Activities and Discharges to the MS4;
- 1.4 To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and
- 1.5 To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

Section 2. Definitions.

Whenever used in this law, unless a different meaning is stated in a definition applicable to only a portion of this law, the following terms will have meanings set forth below:

- 2.1 **Best Management Practices (BMPs).** Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- 2.2 **Clean Water Act.** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- 2.3 **Construction Activity.** Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- 2.4 **Department.** The New York State Department of Environmental Conservation.
- 2.5 **Hazardous Materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- 2.6 **Illicit Connections.** Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:
1. Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
 2. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- 2.7 **Illicit Discharge.** Any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 6 of this law.
- 2.8 **Industrial Activity.** Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.
- 2.9 **MS4.** Municipal Separate Storm Sewer System.
- 2.10 **Municipal Separate Storm Sewer System.** A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
1. Owned or operated by the Town of Lancaster;
 2. Designed or used for collecting or conveying stormwater;
 3. Which is not a combined sewer; and
 4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40CFR 122.2
- 2.11 **Municipality.** The Town of Lancaster.
- 2.12 **Non-Stormwater Discharge.** Any discharge to the MS4 that is not composed entirely of stormwater.
- 2.13 **Person.** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- 2.14 **Pollutant.** Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might

reasonably be expected to cause pollution of the waters of the state in contravention of the standards.

2.15 Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

2.16 Special Conditions.

1. Discharge Compliance with Water Quality Standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

2. 303(d) Listed Waters. The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.

3. Total Maximum Daily Load (TMDL) Strategy. The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

4. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

2.17 State Pollutant Discharge Elimination System (SPDES) Stormwater Discharge Permit. A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.

2.18 Stormwater. Rainwater, surface runoff, snowmelt and drainage.

2.19 Stormwater Management Officer (SMO). An employee, the municipal engineer or other public official(s) designated by the Town of Lancaster to enforce this local law. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

2.20 303(d) List. A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

2.21 TMDL. Total Maximum Daily Load.

2.22 Total Maximum Daily Load. The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

2.23 Wastewater. Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

Section 3. Applicability

This law shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

Section 4. Responsibility For Administration

The Stormwater Management Officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this law. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

Section 5. Severability

The provisions of this law are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this law.

Section 6. Discharge Prohibitions

6.1 Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Section 6.1.1. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

- 6.1.1 The following discharges are exempt from discharge prohibitions established by this local law, unless the Department or the municipality has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.
- 6.1.2 Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this local law.
- 6.1.3 Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.
- 6.1.4 The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

6.2 Prohibition of Illicit Connections.

- 6.2.1 The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- 6.2.2 This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- 6.2.3 A person is considered to be in violation of this local law if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

Section 7 Prohibition Against Activities Contaminating Stormwater

7.1 Activities that are subject to the requirements of this section are those types of activities that:

7.1.1 Cause or contribute to a violation of the municipality's MS4 SPDES permit.

7.1.2 Cause or contribute to the municipality being subject to the Special Conditions as defined in Section 2 (Definitions) of this local law.

7.2 Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

Section 8 Requirement To Prevent, Control, And Reduce Stormwater Pollutants By The Use Of Best Management Practices.

8.1 Best Management Practices

Where the SMO has identified illicit discharges as defined in Section 2 or activities contaminating stormwater as defined in Section 8 the municipality may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.

8.1.1 The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.

8.1.2 Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in Section 2 or an activity contaminating stormwater as defined in Section 7, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.

8.1.3 Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

Section 9 Suspension Of Access To MS4. Illicit Discharges in Emergency Situations.

9.1 The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

9.2 Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this law may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the SMO.

Section 10 Industrial Or Construction Activity Discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the municipality prior to the allowing of discharges to the MS4.

Section 11 Access And Monitoring Of Discharges.

11.1 Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this Law, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Law.

11.2 Access to Facilities.

- 11.2.1 The SMO shall be permitted to enter and inspect facilities subject to regulation under this law as often as may be necessary to determine compliance with this Law. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
- 11.2.2 Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this law.
- 11.2.3 The municipality shall have the right to set up on any facility subject to this law such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.
- 11.2.4 The municipality has the right to require the facilities subject to this law to install monitoring equipment as is reasonably necessary to determine compliance with this law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- 11.2.5 Unreasonable delays in allowing the municipality access to a facility subject to this law is a violation of this law. A person who is the operator of a facility subject to this law commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this law.
- 11.2.6 If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

Section 12 Notification Of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the municipality in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 13 Enforcement.

13.1 Notice of Violation.

When the municipality's SMO finds that a person has violated a prohibition or failed to meet a requirement of this law, he/she may order compliance by written notice of violation to

the responsible person. Such notice may require without limitation:

- 13.1.1 The elimination of illicit connections or discharges;
- 13.1.2 That violating discharges, practices, or operations shall cease and desist;
- 13.1.3 The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- 13.1.4 The performance of monitoring, analyses, and reporting;
- 13.1.5 That the Town will seek civil remedies or criminal penalties, including the imposition of a criminal fine; and
- 13.1.6 The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

13.2 Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a misdemeanor punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

Section 14. Appeal Of Notice of Violation.

Any person receiving a Notice of Violation may appeal the determination of the SMO to the Town Board within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, file its decision in the office of the municipal clerk and mail a copy of its decision by certified mail to the discharger.

Section 15. Corrective Measures After Appeal.

14.1 If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

14.2 If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

Section 16. Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this law. If a person has violated or continues to violate the provisions of this

law, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Section 17. Alternative Remedies.

17.1 Where a person has violated a provision of this Law, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Municipal Attorney and concurrence of the Municipal Code Enforcement Officer, where:

- 17.1.1 The violation was unintentional
- 17.1.2 The violator has no history of previous violations of this Law.
- 17.1.3 Environmental damage was minimal.
- 17.1.4 Violator acted quickly to remedy violation.
- 17.1.5 Violator cooperated in investigation and resolution.

17.2 Alternative remedies may consist of one or more of the following:

- 17.2.1 Attendance at compliance workshops
- 17.2.2 Storm drain stenciling or storm drain marking
- 17.2.3 River, stream or creek cleanup activities

Section 18. Violations Deemed A Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this law is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 19. Remedies Not Exclusive.

The remedies listed in this law are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Section 20. Adoption of Law.

This law shall be in full force and effect upon filing with the Secretary of State. All prior laws and parts of law in conflict with this law are hereby repealed.

**NOW, THEREFORE, BE IT
RESOLVED, as follows:**

1. That pursuant to the Municipal Home Rule Law of the State of New York and Chapter 26 of the Code of the Town of Lancaster, a Public Hearing on the proposed Local Law of the Year 2007, entitled "PROHIBIT ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS TO SEPARATE STORM SEWER SYSTEM" and further designated as Chapter 43 of the Code of the Town of Lancaster, will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, at 8:40 o'clock P.M., Local Time, on the 5th day of November, 2007, and that Notice of the Time and Place of such Hearing shall be published on October 18, 2007, in the Lancaster Bee, being a newspaper of general circulation in said Town and posted on the Town Bulletin Board, which Notice shall be in the form attached hereto and made a part hereof, and

2. That the Town Clerk is hereby directed to make copies of this proposed Local Law for the Year 2007, entitled "PROHIBIT ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS TO SEPARATE STORM SEWER SYSTEM" available for inspection by and distribution to any person during business hours.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

**LEGAL NOTICE
PUBLIC HEARING
TOWN OF LANCASTER**

LEGAL NOTICE IS HEREBY GIVEN, that pursuant to the Municipal Home Rule Law of the State of New York and Chapter 26 of the Code of the Town of Lancaster and pursuant to a resolution of the Town Board of the Town of Lancaster, adopted October 15, 2007, the said Town Board will hold a Public Hearing on the 5th day of November, 2007 at 8:40 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, to hear all interested persons upon a proposed Local Law of the Year 2007, entitled "PROHIBIT ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS TO SEPARATE STORM SEWER SYSTEM", and further designated as Chapter 43 of the Code of the said Town, briefly described as follows:

"A LOCAL LAW TO PROVIDE FOR THE HEALTH, SAFETY AND GENERAL WELFARE OF THE CITIZENS OF THE TOWN OF LANCASTER THROUGH THE REGULATION OF NON-STORMWATER DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) TO THE MAXIMUM EXTENT PRACTICABLE AS REQUIRED BY FEDERAL AND STATE LAW. THIS LAW ESTABLISHES METHODS FOR CONTROLLING THE INTRODUCTION OF POLLUTANTS INTO THE MS4 ORDER TO COMPLY WITH REQUIREMENTS OF THE SPDES GENERAL PERMIT FOR MUNICIPAL SEPARATE STORM SEWER SYSTEMS."

A complete copy of this proposed Local Law of the Year 2007, entitled "PROHIBIT ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS TO SEPARATE STORM SEWER SYSTEM", and designated as Chapter 43 of the Code of the Town of Lancaster, is available at the office of the Town Clerk for inspection and distribution to any person during business hours.

Full opportunity to be heard will be given to any and all citizens and all parties in interest.

**TOWN BOARD OF THE
TOWN OF LANCASTER**

By: **JOHANNA M. COLEMAN**
Town Clerk

October 15, 2007

File: rlocallawprohibitillicitdischarges1007

SUSPENSION GRANTED

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER AMATURA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

WHEREAS, the Municipal Home Rule Law of the State of New York and Chapter 26 of the Code of the Town of Lancaster provide for the adoption and enactment of local laws, and

WHEREAS, after review and consideration, the Town Board of the Town of Lancaster deems it in the public interest to enact a Local Law of the Year 2007, entitled "STORMWATER MANAGEMENT AND EROSION & SEDIMENT CONTROL.", and further designated as Chapter 42, of the Code of the Town of Lancaster, which reads as follows:

**STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL**

**Proposed
Local Law
Of the Year 2007**

**A LOCAL LAW TO AMEND THE ZONING LAW AND SUBDIVISION
REGULATIONS OF THE TOWN OF LANCASTER.**

**STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL**

ARTICLE 1

General Provisions

Section 1. Findings of Fact

It is hereby determined that:

- 1.1 Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- 1.2 This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- 1.3 Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- 1.4 Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- 1.5 Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- 1.6 Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- 1.7 Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- 1.8 The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- 1.9 Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

Section 2. Purpose

The purpose of this local law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in Section 1 hereof. This local law seeks to meet those purposes by achieving the following objectives:

- 2.1 Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-02-02 or as amended or revised;
- 2.2 Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised;

- 2.3 Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- 2.4 Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- 2.5 Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- 2.6 Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

Section 3. Statutory Authority

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town Board of Lancaster has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Town of Lancaster and for the protection and enhancement of its physical environment. The Town Board of Lancaster may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

Section 4. Applicability

- 4.1 This local law shall be applicable to all land development activities as defined in this local law, Article 2, Section 1.
- 4.2 The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the /Town Board of the Town of Lancaster, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.
- 4.3 All land development activities subject to review and approval by the Town Board of the Town of Lancaster under subdivision, site plan, and/or special permit regulations shall be reviewed subject to the standards contained in this local law
- 4.4 All land development activities not subject to review as stated in section 4.3 shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

Section 5. Exemptions

The following activities may be exempt from review under this law.

- 5.1 Agricultural activity as defined in this local law.
- 5.2 Silvicultural activity except that landing areas and log haul roads are subject to this law.
- 5.3 Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- 5.4 Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- 5.5 Land development activities for which a building permit has been approved on or before the effective date of this law.
- 5.6 Cemetery graves.
- 5.7 Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- 5.8 Emergency activity immediately necessary to protect life, property or natural resources.
- 5.9 Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- 5.10 Landscaping and horticultural activities in connection with an existing structure.

Article 2. Zoning Law Amendment: Stormwater Control

The Zoning Law and subdivision regulations are hereby amended to include Article 2, a new supplemental regulation titled Stormwater Control.

Section 1. Definitions

The terms used in this local law or in documents prepared or reviewed under this local law shall have the meaning as set forth in this section.

Agricultural Activity - the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

Applicant - a property owner or agent of a property owner who has filed an application for a land development activity.

Building - any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

Channel - a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clearing - any activity that removes the vegetative surface cover.

Dedication - the deliberate appropriation of property by its owner for general public use.

Department - the New York State Department of Environmental Conservation

Design Manual - the *New York State Stormwater Management Design Manual*, most recent version including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

Developer - a person who undertakes land development activities.

Erosion Control Manual - the most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book".

Grading - excavation or fill of material, including the resulting conditions thereof.

Impervious Cover - those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

Industrial Stormwater Permit - a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration - the process of percolating stormwater into the subsoil.

Jurisdictional Wetland - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land Development Activity - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

Landowner - the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Maintenance Agreement - a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

Nonpoint Source Pollution - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Phasing - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

Pollutant of Concern - sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

Project - land development activity

Recharge - the replenishment of underground water reserves.

Sediment Control - measures that prevent eroded sediment from leaving the site.

Sensitive Areas - cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SPDES General Permit for Construction Activities GP-02-01 - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02 - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards

Stabilization - the use of practices that prevent exposed soil from eroding.

Stop Work Order - an order issued which requires that all construction activity on a site be stopped.

Stormwater - rainwater, surface runoff, snowmelt and drainage

Stormwater Hotspot - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

Stormwater Management - the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

Stormwater Management Facility - one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

Stormwater Management Officer - an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

Stormwater Management Practices (SMPs) - measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

Stormwater Pollution Prevention Plan (SWPPP) - a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

Stormwater Runoff - flow on the surface of the ground, resulting from precipitation

Surface Waters of the State of New York - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

Watercourse - a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Waterway - a channel that directs surface runoff to a watercourse or to the public storm drain.

Section 2. Stormwater Pollution Prevention Plans

2.1. Stormwater Pollution Prevention Plan Requirement

No application for approval of a land development activity shall be reviewed until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

2.2 Contents of Stormwater Pollution Prevention Plans

- 2.2.1** All SWPPPs shall provide the following background information and erosion and sediment controls:
1. Background information about the scope of the project, including location, type and size of project.
 2. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
 3. Description of the soil(s) present at the site;
 4. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
 5. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 6. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
 7. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
 8. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
 9. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 10. Temporary practices that will be converted to permanent control measures;
 11. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 12. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 13. Name(s) of the receiving water(s);
 14. Delineation of SWPPP implementation responsibilities for each part of the site;
 15. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

16. Any existing data that describes the stormwater runoff at the site.

2.2.2 Land development activities as defined in Section 1 of this Article and meeting Condition "A", "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section 2.2.3 below as applicable:

Condition A - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

Condition B - Stormwater runoff from land development activities disturbing five (5) or more acres.

Condition C - Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

2.2.3 SWPPP Requirements for Condition A, B and C:

1. All information in Section 2.2.1 of this local law
2. Description of each post-construction stormwater management practice;
3. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms
5. Comparison of post-development stormwater runoff conditions with pre-development conditions
6. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
7. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
8. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property
9. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article 2, Section 4 of this local law.

2.3 Plan Certification

The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

2.4 Other Environmental Permits

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

2.5 Contractor Certification

- 2.5.1 Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
- 2.5.2 The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- 2.5.3 The certification statement(s) shall become part of the SWPPP for the land development activity.

2.6 A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

Section 3. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control

All land development activities shall be subject to the following performance and design criteria:

3.1 Technical Standards

For the purpose of this local law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

- 3.1.1 The New York State Stormwater Management Design Manual (New York State Department of

Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)

- 3.1.2 New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

3.2 Water Quality Standards

- 3.2.1 Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

Section 4. Maintenance and Repair of Stormwater Facilities

4.1 Maintenance During Construction

- 4.1.1 The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- 4.1.2 The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site log book.

4.2 Maintenance Easement(s)

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Lancaster to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Lancaster.

4.3 Maintenance after Construction

The Town of Lancaster shall be responsible for the operation and maintenance to achieve the goals of this Law. Proper operation and maintenance also includes as a minimum, the following:

- 4.3.1 A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
- 4.3.2 Written procedures for operation and maintenance and training new maintenance personnel.
- 4.3.3 Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Article 2, section 3.2.

Section 5. Severability and Effective Date

5.1 Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

5.2 Effective Date

This Local Law shall be effective upon filing with the office of the Secretary of State.

Article 3. Subdivision Regulation Amendment

The Subdivision Regulations of the Town of Lancaster are hereby amended by adding the following to the information requirements:

A. For Preliminary Subdivision Plat add: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 1 and 2 of this local law shall be required for Preliminary Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Preliminary Subdivision Plat shall be consistent with the provisions of this local law.

B. For Final Subdivision Plat approval add: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law and with the terms of preliminary plan approval shall be required for Final Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Final Subdivision Plat shall be consistent with the provisions of this local law.

Article 4. Site Plan Review Regulation Amendment

The Site Plan Review regulations of the Town of Lancaster are hereby amended by adding the following to the information requirements:

For Site Plan Approval add: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Site Plan shall be consistent with the provisions of this local law.

Article 5. Erosion & Sediment Control Law Repeal or Amendment

All prior laws or parts of law in conflict with this law are hereby repealed.

Article 6. Administration and Enforcement

Section 1. Construction Inspection

1.1 Erosion and Sediment Control Inspection

The Town of Lancaster Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Lancaster enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- 1.1.1 Start of construction
- 1.1.2 Installation of sediment and erosion control measures
- 1.1.3 Completion of site clearing
- 1.1.4 Completion of rough grading
- 1.1.5 Completion of final grading
- 1.1.6 Close of the construction season
- 1.1.7 Completion of final landscaping
- 1.1.8 Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

1.2 Stormwater Management Practice Inspections

The Town of Lancaster Stormwater Management Officer, is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

1.3 Inspection of Stormwater Facilities After Project Completion

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

1.4 Submission of Reports

The Town of Lancaster Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

1.5 Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town of Lancaster the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph 1.3.

Section 2. Performance Guarantee

2.1 Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Lancaster in its approval of the Stormwater Pollution Prevention Plan, the Town of Lancaster may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Lancaster as the beneficiary. The security shall be in an amount to be determined by the Town of Lancaster based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Lancaster, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Town of Lancaster. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

2.2 Maintenance Guarantee

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Lancaster with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Lancaster may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

2.3 Record keeping

The Town of Lancaster may require entities subject to this law to maintain records demonstrating compliance with this law.

Section 3. Enforcement and Penalties

3.1 Notice of Violation.

When the Town of Lancaster determines that a land development activity is not being carried out in accordance with the requirements of this local law, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- 3.1.1 the name and address of the landowner, developer or applicant;
- 3.1.2 the address when available or a description of the building, structure or land upon which the violation is occurring;
- 3.1.3 a statement specifying the nature of the violation;
- 3.1.4 a description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;
- 3.1.5 a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- 3.1.6 a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

3.2 Stop Work Orders

The Town of Lancaster may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Town of Lancaster confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

3.3 Violations

Any land development activity that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.

3.4 Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

3.5 Withholding of Certificate of Occupancy

If any building or land development activity is installed or conducted in violation of this local law the Stormwater Management Officer may prevent the occupancy of said building or land.

3.6 Restoration of lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Lancaster may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

Section 4. Fees for Services

The Town of Lancaster may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Lancaster or performed by a third party for the Town of Lancaster.

Section 5. When effective.

This chapter shall become effective upon filing with the Secretary of State

Schedule A

Stormwater Management Practices Acceptable for Water Quality (From: New York State Stormwater Management Design Manual, Table 5.1)		
Group	Practice	Description
Pond	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
Wetland	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
Infiltration	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
Filtering Practices	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F-2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Flotretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
Open Channels	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the infiltration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.

**NOW, THEREFORE, BE IT
RESOLVED,** as follows:

1. That pursuant to the Municipal Home Rule Law of the State of New York and Chapter 26 of the Code of the Town of Lancaster, a Public Hearing on the proposed Local Law of the Year 2007, entitled "STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL," and further designated as Chapter 42 of the Code of the Town of Lancaster, will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, at 8:45 o'clock P.M., Local Time, on the 5th day of November, 2007, and that Notice of the Time and Place of such Hearing shall be published on October 18, 2007, in the Lancaster Bee, being a newspaper of general circulation in said Town and posted on the Town Bulletin Board, which Notice shall be in the form attached hereto and made a part hereof, and

2. That the Town Clerk is hereby directed to make copies of this proposed Local Law for the Year 2007, entitled "STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL" available for inspection by and distribution to any person during business hours.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

October 15, 2007

**LEGAL NOTICE
PUBLIC HEARING
TOWN OF LANCASTER**

LEGAL NOTICE IS HEREBY GIVEN, that pursuant to the Municipal Home Rule Law of the State of New York and Chapter 26 of the Code of the Town of Lancaster and pursuant to a resolution of the Town Board of the Town of Lancaster, adopted October 15, 2007, the said Town Board will hold a Public Hearing on the 5th day of November, 2007 at 8:45 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, to hear all interested persons upon a proposed Local Law of the Year 2007, entitled "STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL.", and further designated as Chapter 42 of the Code of the said Town, briefly described as follows:

**"A LOCAL LAW TO AMEND THE ZONING LAW AND SUBDIVISION
REGULATIONS OF THE TOWN OF LANCASTER."**

A complete copy of this proposed Local Law of the Year 2007, entitled "STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL", and designated as Chapter 42 of the Code of the Town of Lancaster, is available at the office of the Town Clerk for inspection and distribution to any person during business hours.

Full opportunity to be heard will be given to any and all citizens and all parties in interest.

**TOWN BOARD OF THE
TOWN OF LANCASTER**

By: **JOHANNA M. COLEMAN**
Town Clerk

October 15, 2007

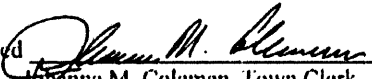
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COMMUNICATIONS & REPORTS:

504. Town of Colden to Town Board -
Transmittal of resolution opposing the Governor's proposal regarding siting of windmills.
DISPOSITION = Received and Filed
505. President, Meals on Wheels to Director of Finance -
Request for inclusion in 2008 Budget. DISPOSITION = Resolution 10/15/07
506. Lancaster Central School District to Town Board -
Request permission for motorcade to travel through Town on evening of October 19,
2007. DISPOSITION = Police
507. Town Clerk to Town Board -
Transmittal of monthly report for September 2007. DISPOSITION = Received and Filed
508. NYS DEC to Town Board -
Transmittal of information regarding remedial work to be done at the former National
Lead site, south side of Walden Avenue and west of Transit Road. DISPOSITION -
Received and Filed
509. Erie County Department of Senior Services to Town Board -
Notice of meetings to be held regarding the 2007-2008 HEAP program on October 15, 16,
17, 2007. DISPOSITION = Received and Filed
510. Erie County Department of Environment & Planning To Town Board -
Designation of November 1 through November 30 as thirty-day time period to request
inclusion of agricultural land into agricultural district. DISPOSITION = Received and
Filed
511. Various Government and School Officials to Local Businesses -
Letter introducing "Project Sticker Shock" to educate adults against providing alcohol to
underage children. DISPOSITION = Received and Filed
512. Evelyn I. Ledwin to Town Board -
Request to consider banning of open fires and fire pits. DISPOSITION = Received and
Filed
513. General Crew Chief to Planning Board, Council Members Montour, Ruffino, & Stempniak -
Notice from Town Forestry Department of no issues regarding preliminary plat plans for
Roseland Subdivision Phase II and Pleasant Meadows Subdivision VI. DISPOSITION =
Planning Committee

ADJOURNMENT:

ON MOTION OF COUNCIL MEMBER RUFFINO, SECONDED BY COUNCIL MEMBER AMATURA AND CARRIED, the meeting was adjourned at 9:59 P.M. in memory of Ann Wadsworth and Charles Taylor.

Signed 
Joanna M. Coleman, Town Clerk